

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

ROBERT FOREST NELSON, JR.,

Case No. 13-CV-0181 (PJS/LIB)

Plaintiff,

v.

ORDER

VICTOR J. WILLIAMS, Sheriff of the Itasca
County Sheriff's Office; DENIS HIRT, Jail
Administrator of the Itasca County Jail;
LUCAS THOMPSON, Administrative
Assistant of the Itasca County Jail,

Defendants.

Robert Forest Nelson Jr., pro se.

Jason M. Hill, JOHNSON & LINDBERG, P.A., for defendants.

Plaintiff Robert Nelson Jr. brings numerous claims arising out of his detention in the Itasca County Jail. This matter is before the Court on defendants' objection to the May 5, 2014 Report and Recommendation ("R&R") of Magistrate Judge Leo I. Brisbois. Judge Brisbois recommends denying defendants' motion for summary judgment and sanctions without prejudice because it appears that Nelson may not have received defendants' motion and supporting materials. Defendants object, seeking a ruling on the merits of their motion.

The Court has conducted a de novo review. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Based on that review, the Court overrules the objection and adopts the R&R. The Court has considerable sympathy for defendants' arguments, but, like Judge Brisbois, the Court is bound by the Eighth Circuit's recent decision in *Irish v. United States Department of Justice*, No. 13-1740, 2014 WL 1716698 (8th Cir. May 2, 2014) (per curiam). Defendants do not even

cite *Irish* in their objection to the R&R, much less suggest a way of distinguishing it. The Court finds that, under *Irish*, it is constrained to deny defendants' motion without prejudice.

ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein, the Court ADOPTS the R&R [ECF No. 42]. Accordingly, IT IS HEREBY ORDERED THAT defendants' motion for summary judgment and for sanctions [ECF No. 29] is DENIED WITHOUT PREJUDICE.

Dated: May 22, 2014

s/Patrick J. Schiltz
Patrick J. Schiltz
United States District Judge